

AUG 19 2003

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

CATHY A. CATTERSON
U.S. COURT OF APPEALS

OSAMA FRANCIS,

Petitioner,

v.

STEVEN CAMBRA, JR., Warden,

Respondent.

No. 02-56037

D.C. No. CV-01-00363-JTM

MEMORANDUM*

Appeal from the United States District Court
for the Southern District of California
Jeffrey T. Miller, District Judge, Presiding

Argued and Submitted August 7, 2003
Pasadena, California

Before: **KOZINSKI, T.G. NELSON**, Circuit Judges, and **RESTANI,****
Judge.

* This disposition is not appropriate for publication and may not be cited to or by the courts of this circuit except as provided by Ninth Circuit Rule 36-3.

** The Honorable Jane A. Restani, United States Court of International Trade, sitting by designation.

We expand the certificate of appealability to encompass the issue of whether Francis exhausted his claims that his Sixth Amendment rights to an impartial jury and to a unanimous jury were violated. See 9th Cir. R.

22-1. Francis fairly presented these claims in his state appeals by citing federal case law. See Lyons v. Crawford, 232 F.3d 666, 670 (9th Cir. 2000), as amended by 247 F.3d 904 (9th Cir. 2001). Francis's claims are therefore exhausted.

We reverse the district court's dismissal without prejudice and remand for further proceedings consistent with our holding.

REVERSED AND REMANDED.